



Waganakising Odawak
Little Traverse Bay Bands of Odawa Indians
7500 Odawa Circle, Harbor Springs, Michigan 49740
Phone 231-242-1401 • Fax 231-242-1412

November 7, 2014

Re: Veto of Tribal Resolution #100914-02
Directive to Institute Weekly Payroll

This memo explains the decision of the Executive Branch to veto Tribal Resolution #100914-02, a directive from the Tribal Council that would require the issuance of weekly paychecks to Tribal Government employees, and the corresponding appropriation of \$64,000 to cover the cost of doing so.

On October 9, 2014, the Tribal Council passed Resolution #100914-02 to accommodate the request of some Tribal Government employees who would prefer to have their paychecks issued weekly, rather than on the current bi-weekly payroll schedule. The Resolution requires the Chairman to "...implement a Tribal Government weekly payroll for employees."

1. Violation of Constitution

The Executive's primary objection to Resolution #100914-02 is that the directive is not consistent with the separation of powers spelled out in the LTBB Tribal Constitution. The Constitution is clear that the duties of the Chairman include oversight of those government departments that are in the Executive Branch, including the Accounting department which issues employee payroll. See Article VIII, Section C (5) of the Constitution.

The Tribal Constitution is also clear that Tribal Citizens have established a separation of the powers of government, and Tribal Citizens expect, as directed in Article VI, Section D of the Constitution, that **"No branch of the government shall exercise the powers, duties or functions delegated to another branch."**

One of the duties of the Executive Branch is to oversee the Accounting department. This means the Executive is responsible for making sure the Accounting department functions at maximum efficiency. The Legislative Branch does have authority to make laws, but directing a specific department of the Executive Branch to perform its work in a specific manner is not within the law-making power, and is instead an example of overreaching by the Tribal Council. This form of "legislation" is intended to circumvent the authority of the Executive Office, and is better described as encroachment through legislation. The Resolution violates Article VI (D) of the Constitution because the Legislative Branch is seeking to exercise power that has already been delegated to the Executive Branch.

2. Additional Cost

The Accounting department currently issues paychecks to 203 employees every other week. But processing payroll is not simply a matter of printing checks. Payroll also requires keeping track of address information, confirming bank routing data, tracking various deductions (insurance, 401(k), etc.), calculating state and federal taxes, implementing withholding orders, and a number of other steps in getting the payroll done correctly.

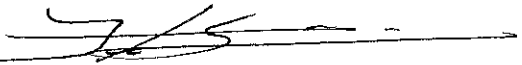
Because of the extra work that will be required, changing to a weekly payroll for Tribal Government employees will require the addition of one staff member in the Accounting department. This additional staff member will translate to a permanent additional cost of approximately \$60,000 per year, and the cost will continue indefinitely. As a result, over the next five years LTBB will spend a conservatively-estimated \$300,000 to accommodate the desire for weekly paychecks. With the declines in casino revenue, we need to be mindful of how we spend our limited resources.

3. Other Options

We understand that expenses are high and sometimes it's a real challenge to stretch a paycheck to cover everything. Most of us have been there at one time or another; many still run our households on very tight budgets. But we've also heard from Tribal Government employees who say they need the current system of bi-weekly pay, because then at least one paycheck is large enough to cover a major bill, such as rent or car insurance. And we are also aware of the situation of many of our Tribal Elders, who somehow find a way to "make do" with a Social Security check that is issued just once a month.

We encourage the Tribal Council to consider alternate solutions to the problem, such as an emergency loan fund or workshops on managing personal finances. We believe it would be worth the time to explore whether there are more cost-effective solutions to the needs of those employees who are asking for weekly paychecks. We also ask the Tribal Council to reconsider and to respect the boundaries of the authority granted to the Legislative Branch by the Constitution.

Respectfully submitted,


Fred Kiogima
Tribal Chairman

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
7500 Odawa Circle
Harbor Springs, MI 49740

TRIBAL RESOLUTION # 100914-02

Supplemental Funding for Accounting Department to reinstitute the Tribal Employee Weekly Payroll
in the amount of \$64,000.00 to come from Prior Period Funds

- WHEREAS** the Waganakising Odawak Nation, known as the Little Traverse Bay Bands of Odawa Indians, and its citizens are vested with inherent sovereignty and right to self-governance;
- WHEREAS** the Little Traverse Bay Bands of Odawa Indians is a federally recognized Indian Tribe under Public Law 103-324, and is a party to numerous Treaties with the United States the most recent of which being the Treaty of Washington of March 28, 1836 (7 Stat. 491) and the Treaty of Detroit of 1855 (11 Stat. 621);
- WHEREAS** the Tribal Government weekly payroll was changed in October of 2011, to a bi-weekly payment to accommodate a reduction of staff and the implementation of new payroll software, and created unnecessary hardship on the tribal government employees;
- WHEREAS** in order to implement a weekly payroll, the cost will be approximately \$4,000.00 for FY 2014, and \$60,000 for FY 2015 and the cost will be included in the budget for FY 2016;
- WHEREAS** Supplemental funding will come from prior period funds and will not affect or impact any of the currently approved department budgets for FY 2014 and FY 2015, and no services, programs or employee benefit's shall be negatively impacted by implementing this Resolution.
- WHEREAS** Law Enforcement personnel may work under a "14 day work period" and be paid bi-weekly.

THEREFORE, BE IT RESOLVED, Tribal Council appropriates the sum of \$4,000.00 for FY 2014, and \$60,000.00 for FY 2015 to the Accounting Department to implement the Tribal Government weekly payroll for

employees, except for Law Enforcement personnel, to come from Prior year funding and the Tribal Chairman shall administer his oversight authority to the extent necessary to ensure the administration of such funds and shall implement a Tribal Government weekly payroll for employees.

FURTHER BE IT RESOLVED, that this Resolution shall be fully implement within 90 days of enactment.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Tribal Resolution was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on October 9th, 2014 at which a quorum was present, by a vote of 7 in favor, 1 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Bill A. Denemy	X			
John W. Keshick III	X			
Beatrice A. Law	X			
Michael J. Naganashe	X			
Aaron Otto		X		
Winnay Wemigwase				X
Julia A. Shananaquet	X			
Marcella R. Reyes	X			
Regina Gasco Bentley	X			

Date: 10-9-14

Regina Gasco Bentley
Legislative Leader Regina Gasco Bentley

Date: 10-9-14

Julia Shananaquet
Secretary Julia A. Shananaquet

Received by the Executive Office on

10-10-14

by

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date:

Fred Kiogima, Tribal Chairperson